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GRONER AND ANOTHER v. FOSTER AND OTHERS. — Decided at Wytheville, June 17, 1897.—*Riely, J* :

1. RIPARIAN OWNERS—*Low water mark—How flat apportioned—Equity jurisdiction—Portwarden's line.* Every riparian owner owns the land subject to certain designated provisions within the boundaries of his lines extended to low water mark. He also has the right to the water frontage of his land. This right includes, amongst others, the right of access from the front of his line to the navigable part of the water course, and also to the flats, or soil under the water from low water mark to the navigable line of the water course, whereon he may erect wharves, piers or bulkheads for the use of himself or the public, provided he does not obstruct navigation, nor injure private rights of others. He has the right to have the extent of such enjoyment upon the line of navigability determined and marked, and its boundaries defined, and a court of equity is the proper tribunal to make the apportionment and determine and establish the boundary lines of the coterminous owners. In making the apportionment, however, between coterminous owners the rule of division is, as the whole shore-line of the coterminous owners at low water mark is to the whole line of navigability, so is each one's share of the shore-line to his share of the line of navigability. The flats, or land under water, are to be thus divided regardless of the character or value of the flats—to be laid off as directly in front of the lands of each owner as a just regard to the rights of coterminous owners will permit. The portwarden's line, as defined by the persons invested with that power, is binding upon the courts in apportioning the water front amongst the parties entitled thereto.

BELL, COMMISSIONER, v. WOOD AND OTHERS.—Decided at Wytheville, June 17, 1897.—*Cardwell, J* :

1. STATUTE OF LIMITATIONS—*Bonds—Presumption of payment—Partial payments.* Prior to July 1, 1850, there was no positive limitation as to the time within which an action must have been brought on a bond. And although after that time a limit of twenty years was prescribed, an order for an account of debts in the case at bar, which was a suit to settle the estate of a deceased obligor, stopped the running of the statute. The presumption of payment after the lapse of twenty years is repelled by a payment within that time.

2. EQUITABLE RELIEF—*Stale demands—Laches.* Courts of equity will not lend their aid to enforce stale demands, but demands are considered stale only where gross laches is shown with unexplained acquiescence in the operation of an adverse right. Laches is the omission of some duty, but mere delay unaccompanied by circumstances tending to show an abandonment of the right is not laches. Each case, however, must depend upon its own peculiar circumstances. Generally, if the sum sought to be recovered is certain, the transaction has not become obscure, and there has been no such loss of evidence as will be likely to produce injustice, a court of equity will not refuse relief merely because there has been delay in asserting the claim.

3. DEMURRER—*Deed to "Fayette Maury"—Acknowledged before "F. Maury."* On a demurrer to a petition which alleges that a deed to "Fayette Maury," trustee, was acknowledged before "F. Maury," clerk, it will not be assumed that the two names represent one and the same person. This is a matter of proof.